



KERALA GAZETTE

PUBLISHED BY AUTHORITY

Vol. LV വാല്യം 55	THIRUVANANTHAPURAM, TUESDAY തിരുവനന്തപുരം, ചൊവ്വ	26th October 2010 2010 ഒക്ടോബർ 26 4th Karthika 1932 1932 കാർത്തിക 4	No. നമ്പർ	42
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IN THE COURT OF THE SUBORDINATE JUDGE
OF KOZHIKODE

I. P. No. 1/07

Between

Petitioner:

K. K. Rajagopalan Nambiar,
Aged 66 years,
S/o Late Kunhikanaran Kidav,
1/3824 'Ammu', Bilathikulam,
Calicut-673 006

And

Respondents :

1. State Bank of India,
Main Branch, Mananchira,
Calicut.
2. Kerala State Industrial Development Corporation,
Thiruvananthapuram.
3. State of Kerala represented by Secretary to
G o v e r n m e n t ,
Thiruvananthapuram

This petition coming on the 14th day of June 2010
for final hearing before me in the presence of
S/Sri. V. M. Leelavathy & V. C. Geethamani, Advocates

for petitioner and of Smt B. Babitha, Advocate for 2nd
respondent, 1st and 3rd respondents not entered in
appearance and set ex-parte, and having stood over to
this day for consideration, this Court passed the
following :

ORDER

Petition u/s 7 of the Insolvency Act, 1955.

Petition averment is that the petitioner was one of
the Directors of M/s. Triglobe Pharmaceuticals Ltd.,
Kakkavayal, Eangapuzha, Kozhikode District. Said
company had availed a loan of Rs. 75 lakhs from
KSIDC and another loan of Rs.15,62,365 from State
Bank of India, Main Branch, Calicut. He was also a
signatory along with other directors and Managing
Director. Later, in 1996, he had submitted his
resignation from the Director Board, which was
accepted by the company, in 1997. By that time, the
business had ended in huge financial loss for

reasons beyond the control of the petitioner. The company was under liquidation and now it is understood that properties of the company were sold for auction as per the directions of the Hon'ble High Court of Kerala. The Recovery Tribunal had passed an award for Rs. 8 lakhs to be deposited by the managing director and other 3 directors including the petitioner, in equal proportion. The petitioner is a heart patient and undergone an angioplasty. Now, he is totally bed ridden and immobilized due to multiple disc prolapse. Along with these ailments the above mentioned huge liabilities makes his life desperate. It is further averred that R3 is taking emergent steps for realisation of the amount due and petitioner had been threatened with arrest in case of non-payment. Petitioner has no intention to defraud the creditors and he had taken all possible measures to pay off the debts. Petitioner's assets is shown as B schedule. It is quite insufficient to clear the liabilities shown as A schedule. Properties had been attached by R3 and in its possession. Petitioner anticipates arrest and detention. Petitioner believes that the creditors will initiate proceedings against him for realisation of the amounts due from him. He is unable to make payment to any of these creditors on account of the reasons stated above. Since, petitioner is unable to pay to his creditors and discharge his liabilities, he may be adjudged as insolvent. Hence, this petition to adjudge him as insolvent.

2. R1 and 3 remained ex-parte. R2 entered appearance and filed statement.

3. Pending proceedings, I.A. 3424/2009 was filed to strike off the name of R1 and 2 from the party array, which was allowed as per order dated 8-12-2009.

4. Petitioner had filed proof affidavit, one witness was also examined and Exts. A1 marked.

5. Point to be considered is:—

Whether petitioner is entitled to be adjudged as insolvent?

6. *Point:*—Petitioner had filed proof affidavit in terms of the petition averments. He is a patient suffering from various ailments is spoken to by the Doctor, who had treated him, who was examined as PW1 and certificate issued was also marked through him as Ext. A1. Respondent No. 3 remained ex-parte. On going through

the petition averments, affidavit filed, supported by document, this court is satisfied that, petitioner is indebted to the institutions like KSIDC, State Bank of India etc. as gatherable from petition A schedule and his assets are shown as petition 'B' schedule and R. R. proceedings are also initiated on the said properties, thus he is unable to pay his debts, thus, he has satisfied the conditions specified in Sections 10 and 13 of the Act. In the said circumstances is entitled to the relief sought.

In the result, petitioner is adjudged as insolvent. He shall apply for discharge within a period of 6 months from today. Published in the Gazette as provided in Sec. 31 of the Act. No costs.

In the result, petitioner is adjudged as insolvent. She shall apply for discharge within a period of 6 months from today. No order as to costs.

(Dictated to the C. A., transcribed by her, corrected and pronounced by me in open court, this the 18th day of June, 2010).

(Sd.)

Principal Sub Judge.

Petitioner's Witness

PW1. 15-2-2010 Professor R. Krishnan

Petitioner's Exhibit

A1. 4-8-2009 Certificate given by Dr. R. Krishnan

Respondent's Witness & Exhibit—Nil.